

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

LEWIS DAVID PATTERSON

PLAINTIFF

VS.

CIVIL ACTION NO. 3:13cv147-FKB

KENNETH LEWIS

DEFENDANT

OMNIBUS ORDER

Plaintiff, a pretrial detainee at the Simpson County Adult Detention Center, brought this action pursuant to 42 U.S.C. § 1983 alleging that Sheriff Kenneth Lewis used excessive force against him. Having considered Plaintiff's testimony at the *Spears*¹ hearing, and having conferred with Plaintiff and counsel for Defendant, the Court finds and orders as follows.

This cause is set for a jury trial before the undersigned at 1:30 p.m. on January 14, 2014. A pretrial conference will be held at 10:00 a.m. on January 7, 2014.

Upon motion of Plaintiff, the Court shall secure the presence at trial of up to three incarcerated witnesses if the Court concludes that their testimony is relevant. Plaintiff shall include in any such motion the prisoner identification number and correctional facility in which the witness is housed and shall state in detail the nature of the proposed testimony and how it is relevant to the factual issues of Plaintiff's claim. Any such motion shall be made no later than thirty days prior to trial.

Should any of Plaintiff's witnesses be or become "free world," Plaintiff shall be responsible for securing their voluntary presence at the trial. Should a "free world"

¹See *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985).

witness refuse to appear voluntarily, Plaintiff shall adhere to the following procedure to secure the witness's presence. No later than thirty days prior to trial, Plaintiff shall file a motion with the Court requesting a subpoena to be issued for the witness. The request shall include the name and address of the witness and shall be accompanied by the witness fee and expense payment required by Rule 45 of the Federal Rules of Civil Procedure.

At the *Spears* hearing, Defendants produced Plaintiff's institutional records, consisting of Bates nos. 1-131. No further discovery shall be conducted without leave of court.

All motions, other than motions *in limine*, shall be filed by November 8, 2013.

SO ORDERED this the 11th day of September, 2013.

/s/ F. Keith Ball

UNITED STATES MAGISTRATE JUDGE